

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APR 09 2007  
IAP88  
OPIE  
PATENT & TRADEMARK OFFICE

In re application of: Bolduc et al. Group Art Unit: 3731  
Serial No: 10/752,435 Examiner: R Severson  
Filed: 6 January 2004  
For: Prostheses Systems and Methods Sized and Configured for Receipt and Retention  
of Fasteners

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT BEFORE MAILING DATE  
OF EITHER A FINAL ACTION OR NOTICE OF ALLOWANCE (37 CFR 1.97(c))**

**NOTE:** "An information disclosure statement shall be considered by the Office if filed ... before the mailing date of either (1) a final action under S 1.113 or (2) a notice of allowance under S 1.311, whichever occurs first, provided the statement is accompanied by either a certification as specified in paragraph (e) of this section or the fee set forth in S 1.17(p)." 37 CFR 1.97(c).

**NOTE:** "If a final action or notice of allowance is mailed in an application and later withdrawn, the application will be considered as not having had a final action or notice of allowance mailed for purposes of considering an information disclosure statement." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**NOTE:** "If information submitted during the period set forth in 37 CFR 1.97(c) with a certification is used in a new ground of rejection on unamended claims, the next Office action will not be made final since in this situation it is clear that applicant has submitted the information to the office promptly after it has become known and the information is being submitted prior to a final determination on patentability by the Office. However, the information submitted with a certification can be used in a new ground of rejection and the next Office action made final, [i]f the new ground of rejection was necessitated by amendment of the application by applicant. Where the information is submitted during this period with a fee, the examiner may use the information submitted, e.g., printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP 706.07(a). If a new ground of rejection is introduced that is neither necessitated by an amendment to the claims nor based on the information submitted with the fee set forth in 37 CFR 1.17(p), the Office action shall not be made final." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**WARNING:** "A PETITION FOR SUSPENSION OF ACTION TO ALLOW APPLICANT TIME TO SUBMIT AN INFORMATION DISCLOSURE STATEMENT WILL BE DENIED AS FAILING TO PRESENT GOOD AND SUFFICIENT REASONS, SINCE 37 CFR 1.97 PROVIDES ADEQUATE RE COURSE FOR THE TIMELY SUBMISSION OF PRIOR ART FOR CONSIDERATION BY THE EXAMINER." NOTICE OF JULY 6, 1992 (1141 O.G. 63).

**TIME OF TRANSMITTAL OF ACCOMPANYING INFORMATION  
DISCLOSURE STATEMENT**

1. The information disclosure statement transmitted herewith is being filed AFTER THREE MONTHS OF THE FILING DATE OF THIS NATIONAL APPLICATION OR THE DATE OF ENTRY OF THE NATIONAL STAGE AS SET FORTH IN S 1.491 IN AN INTERNATIONAL APPLICATION OR AFTER THE MAILING DATE OF THE FIRST OFFICE ACTION ON THE MERITS, WHICHEVER EVENT OCCURRED LAST BUT BEFORE THE MAILING DATE OF EITHER:
  - (1) a final action under § 1.113 or
  - (2) a notice of allowance under § 1.311,
 whichever occurs first.

**CERTIFICATE OF MAILING (37 CFR 1.8a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, with sufficient postage, in an envelope addressed as follows: Mail Stop Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on 6 April 2007

04/09/2007 NNGUYEN1 00000051 10752435

02 FC:1806

180.00 OP

Signature of Person Signing

Judith Dunaway

Type or Print Name of Person Signing

## CERTIFICATION OR FEE

2. Accompanying this transmittal is  
(check either A or B below)

A.  a certification as specified in 37 CFR 1.97(e)  
OR

B.  the fee set forth in 37 CFR 1.17(p) for submission of an information disclosure statement under S 1.97(c). (\$180.00).

## FEE PAYMENT

(complete this item, if applicable)

3. Applicant elects the option to pay the fee set forth in 37 CFR 1.17(p) for submission of an information disclosure statement under S 1.97(c) (\$180.00).

Fee due \$ 180.00

## METHOD OF PAYMENT OF FEE

4.  Attached is check in the amount of \$ 180.00

Charge Account No.        in the amount of \$         
A duplicate of this request is attached.

The submission of any document herewith is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* prior art reference against the claims of the present application.

**COPIES OF THE DOCUMENTS LISTED ON THE ATTACHED FORM PTO-1449 CAN BE FOUND IN THE FILE WRAPPER OF PARENT APPLICATION SERIAL NO. 10/271,334 FILED 15 October 2002 AND ARE THEREFORE NOT INCLUDED WITH THIS SUBMISSION. \*\*\*\*\***

\*\*\*\*\* A copy of US 5,824,037 granted 10/1998 to Fogarty et al. is attached

If any additional fees are due, please charge Account No. 06-2360

Reg. No. 29,243

Telephone No.: (262) 783 - 1300

Customer No. 26308

  
\_\_\_\_\_  
Signature of Attorney  
Daniel D. Ryan  
\_\_\_\_\_  
Type or Print Name of Attorney of Record  
RYAN KROMHOLZ & MANION, S.C.  
Post Office Box 26618  
Milwaukee, Wisconsin 53226-0618  
\_\_\_\_\_  
Mailing Address of Sender

<p style="text-align: center;">O I P E LIST OF PRIOR ART CITED BY APPLICANT (Use several sheets if necessary)</p> <p style="text-align: center;">APR 09 2007 Customer No. 26308</p>	ATTY DOCKET NO. 9494.18510	SERIAL NO. 10/752,435
	APPLICANT Bolduc et al.	
	FILING DATE 06 January 2004	GROUP 3731
		Page 1

### U.S. PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	2,033,039	03/1936	Limpert			
	3,499,222	03/1970	Linkow et al.			
	3,686,740	08/1972	Shiley			
	3,799,172	03/1974	Szpur			
	4,140,126	02/1979	Choudhury			
	4,307,722	12/1981	Evans			
	4,580,568	04/1986	Gianturco			
	4,625,597	12/1986	Cast			
	4,781,682	11/1988	Patel			
	4,898,577	02/1990	Badger et al.			
	4,921,484	05/1990	Hillstead			
	5,030,204	07/1991	Badger et al.			
	5,042,707	08/1991	Tahen			
	5,071,407	12/1991	Termin et al.			
	5,104,399	04/1992	Lazarus			
	5,207,695	05/1993	Trout, III			
	5,290,295	03/1994	Querals et al.			
	5,330,490	07/1994	Wilk et al.			
	5,330,503	07/1994	Yoon			
	5,456,714	10/1995	Owen			
	5,470,337	11/1995	Moss			
	5,480,382	01/1996	Hammerslag et al.			
	5,489,295	02/1996	Piplani et al.			
	5,562,728	10/1996	Lazarus et al.			
	5,571,171	11/1996	Barone et al.			

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this of with next communication to applicant

LIST OF PRIOR ART CITED BY APPLICANT (Use several sheets if necessary)	ATTY DOCKET NO. 9494.18510	SERIAL NO. 10/752,435
	APPLICANT Bolduc et al.	
Customer No. 26308	FILING DATE 06 January 2004	GROUP 3731

Page 2

**U.S. PATENT DOCUMENTS**

Examiner Initial	DOCUMENT NUMBER	Date	Name	Class	Subclass	Filing Date (If Appropriate)
	5,571,173	11/1996	Parodi			
	5,582,616	12/1996	Bolduc et al.			
	5,626,613	05/1997	Schmieding			
/	5,639,278	06/1997	Dereume et al.			
/	5,662,683	09/1997	Kay			
	5,662,700	09/1997	Lazarus			
	5,676,696	10/1997	Marcade			
	5,676,697	10/1997	McDonald			
	5,700,269	12/1997	Pinchuk et al.			
	5,702,365	12/1997	King			
	5,713,907	02/1998	Hogendijk et al.			
	5,810,882	09/1998	Bolduc et al.			
	5,814,016	09/1998	Valley et al.			
	5,824,008	10/1998	Bolduc et al.			
	5,824,037	10/1998	Fogarty et al. *****			
	5,824,041	10/1998	Lenker et al.			
	5,855,565	01/1999	Bar-Cohen et al.			
	5,957,940	09/1999	Tanner et al.			
	5,964,772	10/1999	Bolduc et al.			
	5,968,053	10/1999	Revelas			
	5,972,023	10/1999	Tanner et al.			
	5,980,548	11/1999	Evans et al.			
	5,993,401	11/1999	Inbe et al.			
	5,993,466	11/1999	Yoon			
	6,070,589	06/2000	Keith et al.			
	6,086,582	07/2000	Altman et al.			

EXAMINER

DATE CONSIDERED

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this of with next communication to applicant

<b>LIST OF PRIOR ART CITED BY APPLICANT</b> <i>(Use several sheets if necessary)</i>	ATTY DOCKET NO.	SERIAL NO.
	9494.18510	10/752,435
	APPLICANT	
	Bolduc et al.	
Customer No. 26308	FILING DATE	GROUP
	06 January 2004	3731

## U.S. PATENT DOCUMENTS

EXAMINER	DATE CONSIDERED
----------	-----------------

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this of with next communication to applicant

LIST OF PRIOR ART CITED BY APPLICANT <i>(Use several sheets if necessary)</i>	ATTY DOCKET NO. 9494.18510	SERIAL NO. 10/752,435
	APPLICANT Bolduc et al.	
Customer No. 26308	FILING DATE 06 January 2004	GROUP 3731

Page 4

#### FOREIGN PATENT DOCUMENTS

Examiner Initial	DOCUMENT NUMBER	Date	Country	Translation Attached
	0 321 912	12/1987	EP	
	0 663 184	01/1994	EP	
	2299548	01/1975	FR	
	WO1997/003616	02/1997	WO	
	WO1999/053845	10/1999	WO	

#### OTHER PUBLICATIONS

Examiner Initial	
	5mm Origin Tracker™ It Runs in Circles Around Staples, 1995 Advertising Literature
	"The Spiral Tracker: A New Technique for Stabilizing Prosthetic Mesh in Laparoscopic Hernia Repair", 11/1995 <i>Surgical Rounds</i>
	"Laparoscopic Surgery", <i>MedPro Month</i> 10/1995, p. 190
	"Assisted TAPP Procedure", Newman III et al., Circa 1995
	"Extraperitoneal Endoscopic Burch Repair Using a Tacker Mesh Technique", Hatchett et al., Circa 1995